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Networks in Danish EU Policy-Making

Søren von Dosenrode

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Abbreviations

CAP	Common Agricultural Policy
COREPER	Comité des représentants permanents
EP	European Parliament
EU	European Union
IO	Interest Organisation
MEP	Member of the European Parliament
MP	Member of (the Danish) Parliament (Folketing)
SEA	Single European Act
TEC	Treaty on the European Community
TEU	Treaty on the European Union (Maastricht Treaty)

1. Introduction

Today the European Union (EU) is a huge and complex system that influences the political systems of the member-states deeply. Large and important areas of the Danish society are now governed directly by EU directives and regulations or less directly influenced by the norms and ideologies of the EU. This essay attempts to analyse the question of who decides the official Danish EU policies.¹ What is interesting here is the policy formulation process, not the implementation. Which actors decide what in which settings? We will concentrate on the interplay of the important networks, where the four central national actors in the Danish policy-making process (the Parliament, (*Folketinget*), the government, the civil service and the interest organisations) are acting. Other actors, such as the press are only included when needed. Apart from the already mentioned objective of mapping Danish EU policy-making, the main argument to be forwarded is that an important part of the legislation directly influencing Danish citizens in Denmark is not made by parliamentarians, but in networks dominated by the civil servants and the interest organisations (IOs).

To limit this essay to a reasonable length I distinguish between two kinds of EU policies: On the one hand the 'official' Danish EU policy, and on the other hand the attempts that private actors undertake to influence the policies of the EU in a certain area. The latter can be described as non-governmental transnational relations. In this essay we shall concentrate on the official Danish EU policy. The distinction does not imply that the interest organisations are not to a very large extent involved in the making of the official Danish EU stands, and we shall look at them in this context. But the distinction is made because an analysis of the 'private' Danish EU policy, as conducted e.g. by Danish members of the European Round Table of Industrials, would demand an analysis of its own.

1.1 Remarks on Theory

The analysis of the EU and the EU policy-making has often had its starting-point in the notion of the EU as an arena of traditional foreign policy-making, or in the theories of integration (stressing structures and processes), or within the field of (public international) law (viewing the EU as a new entity '*sui generis*'). The policy analysis approach has been concentrating on liberal democratic systems (Schumann in: Héritier, 1993/394). But there

¹ This essay mainly treats the day-to-day EC policy in the so-called first pillar of the EU treaty. This pillar has a different (supranational) quality than the other two pillars.

is no obvious reason why one should not try to use the insights of the policy analysis approach, when analysing the EU, and this has recently been done (e.g. Bulmer, 1994; Peterson, 1995). Thus a policy analytical approach has been chosen as the frame. Within the comprehensive insights of this approach, especially the concepts of the policy cycle and that of network analysis will be drawn upon.

The policy cycle is traditionally divided into phases, where the actual number may vary a bit (e.g. May & Wildavsky, 1978; or Jenking in: Hill, 1993). In this essay Windhof-Héritier's concept of a five-phase division will be used (1987): 1) Problem definition, 2) Agenda-setting, 3) Policy formulation, 4) Implementation, and 5) Policy reformulation or policy termination.²

When analysing the interplay situations, the network approach seems well suited as a frame supplementing the policy cycles.³ In this essay Héritier's reformulation of Mayntz' definition will be used, as it opens up the possibility for both formal and informal interactions, seeing them as a whole (in: Héritier, 1993/432):

"[...] Politiknetzwerke werden hier [...] definiert als überwiegend informelle (aber auch formelle) Interaktion zwischen Akteuren, meist Organisationen oder Einzelpersonen (als Mitglieder von Organisationen) mit unterschiedlichen, aber wechselseitig abhängigen Interessen, [...]".

The term 'policy network' is used in its genetic way, covering a variety of network types ranging from policy communities at one end of the continuum to issue-networks at the other (Rhodes & Marsh, 1992/182). In the following text, the terms 'policy network' and 'network' are used synonymously.

The network approach has the advantage, that it is usable for the analysis of open and closed networks (Pappie in: Héritier, 1993/87), and for the analysis of interactions between different types of actors, over longer periods of time and across hierarchies. It is also usable for grasping the relations of actors outside the formal setting. Compared to e.g. the legalistic tradition, the network approach urges us from the start to expect other actors and procedures than the ones laid down in laws and procedures.

In his article on the network approach, Frans van Warden has developed a scheme of seven dimensions (variables) for the analysis of networks (1992/32-38): The actors, the function, the structure, the institutionalisation, the rules of conduct, the power relation and the actor strategies. Realising the high complexity and the risk of losing the overview, van Waarden suggests a concentration on three main dimensions (1992/49): 1) the actors involved, 2) the main function of the network, and 3) the power relations. This division

² E.g. May and Wildavsky discuss the advantages of using the policy cycles as methodological tool (1978/10). The criticism raised against the policy analysis in general, and the policy cycle in particular, is discussed by Héritier, in: Héritier, 1993, as well as in Parsons, 1995/77-81.

³ For a discussion of the network approach as method and concerning definitions, see Pappi in: Héritier, 1993. In general Héritier, 1993, gives a comprehensive survey of the approach, alternatively, see Parsons, 1995.

will be used here, occasionally supplemented by the other dimensions.⁴

"The strength of the network approach is that it provides a metaphor for this complexity which 'fits' the technological and sociological changes of modern society" (Parsons, 1995/185).

1.2 Structure of the Essay

Apart from the introduction and a few concluding remarks, this essay will essentially comprise two main parts:

We will start out by taking a brief look at the EU decision-making system. This will give us an impression of the frame in which the Danish EU decision-making process is set. The hyper-complexity of this decision-making system, as well as other differences to the policy-making systems of traditional liberal democratic states, will be treated. This will be followed by a general view of the EU policy-making system, structured by the five steps of the policy cycle.

We will then turn to the Danish EU decision-making system. First we look at the formal national EU decision-making. We will then proceed with an analysis of the networks where different sectors and actors interact in the shaping of Danish EU policy.

2. EU Policy-Making

2.1 The EU as a Policy-Making System

There are a variety of differences between a 'normal' liberal democratic state and the EU. We will treat some of the more important ones that relate to the topic of this essay. The most striking feature of the EU is the handing over of national sovereignty from the member-states to the EU, i.e. the establishment of a supranational organisation, that enacts binding legislation for the member-states. Under the supranational level, there still is a national level, consisting of 15 states, all of liberal democratic character. Below the state level there is an increasingly important sub-national level of regions (cf. von Dörmann, 1995). This creates a hyper-complex decision-making process. The power of the individual member-state executive has been constrained by the increasing integration process, especially by the increased use of qualified majority voting in the Council of Ministers. Even as a *collegium*, the state executives have lost influence, as Marks, Hooghe and Blank argue (1996/353f). Thus we are dealing with a very complex and intriguing

⁴ Apart from published sources, the material for this essay comes from memoranda from the Civil service and from interviews with civil servants, ministers and members of the Parliament in 1993, 1995 and 1996.

policy-making system.

On the supranational level the ideal of a division of power à la Montesquieu in an executive, a legislative and a judiciary power is not upheld. The Council of Ministers is the most important of the institutions.⁵ Its members, i.e. the ministers from the member-states, are responsible to their national parliaments, and thus to the electorate. But they are only responsible in a segmented way - only the Danish parliament can dismiss the Danish minister in the Council. The members of the Council have a limited right to initiate law, in the sense that they can ask the Commission to look at a certain issue (Art 152 ECT). A further 'anomaly' is that the Council of Ministers is segmented, i.e. it gathers as council for agricultural affairs, for fisheries etc, always with the respective ministers from each national state.

A 'variation' of the Council of Ministers, is the European Council, where the heads of state or governments as well as the president of the European Commission meet, normally twice a year. One of their important tasks is (TEU Art. D):

"[to] provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof [...]"

In a later part, this article stipulates that the president of the Commission has a right to attend the meetings. Thus the division of executive and legislative are getting even more blurred.

The Commission has got an executive function.⁶ The role of the Commission is basically that of an administration with a strong political role. The European Commission is virtually untouchable, and it is only to a very limited degree responsible to the Council and the European Parliament, let alone to an electorate. Compared to a national administration, the Commission is different in so far as it has got a distinct aim, the European integration (Mazey & Richardson in: Edwards & Spence, 1994/175), and an obligation to initiate legislation.

The importance of the European Parliament has increased dramatically since the implementation of the Maastricht Treaty. But it still lacks a direct right to initiate legislation, the hall mark of a real parliament (it can only 'request the Commission to submit an appropriate proposal' TEU art. 138 b).

Of other important features by the EU decision-making system, one could mention:

1) The EU is still a young 'construct' without an ancestry. It is still developing, and the final result is open.

2) "[...] the loose structure, combined with complexity and heterogeneity, provides more room for the process in determining outcome than in national political systems. On the other hand, actors bring with them national styles, strategies and tactics" (Andersen

⁵ For an introduction to the Council and its work, see e.g. Nugent, 1994.

⁶ For further introduction to the Commission and its work, see e.g. Edwards & Spence, 1994.

& Eliassen in: Andersen & Eliassen, 1993/11).

3) The interplay between the supranational level and the national level is diffuse and varies according to the issue treated (Schumann in: Héritier, 1993/410f). In spite of this, two elements of a certain durability have been identified (Schumann in Héritier, 1993/411f): 1) The constitutional element, or the Commission's fight for power, 2) The bureaucratic dominance, due to the impotence of the EP.

4) The Commission appears fragmented. The coordination is not efficient. Often several GDs are working on similar cases without knowing it.

The above mentioned characteristics by no means make out a full characteristic, they simply hint at the very special nature of the EU, calling for an openness of minds when analysing the Union.⁷

2.2 The Policy Cycle within the EU

In a liberal democratic state the first step of the policy-making process is the *problem definition*. To become a policy problem, the affected have to be of the opinion that the problem can and shall be solved politically. It depends on the political power of the affected how the problem is then formulated (Windhoff-Héritier, 1987/67-69).

In this first phase the game in the EU is per definition open, and muddy. The EU decision-making process can be influenced the most in this phase and in the following agenda-setting phase. This is why the member-states have to try to get involved in these phases.⁸

The Commission is clearly the most important actor in this phase, and it is responsible for the problem definition; a responsibility deriving from its 'monopoly of proposals'. If an issue looks interesting, the Commission will start sounding its closer partners, mainly interest organisations, to get a first impression. This is a fairly closed process, and it frequently happens that the member-states do not know that the Commission prepares an initiative. This makes it impossible to influence this phase. Organisations or 'experts' may get invited, but no one has a 'right' to be heard at this important stage; the 'partner organisations' of the Commission are not chosen according to representativity or other objective criteria. In day-to-day policy, only the Commission and the 'chosen few' are decisive actors. Sometimes the organisations which were consulted report back to their national administration, if they have one, but it is not necessarily so.

There are no official rules guiding the meetings and 'soundings' of the Commission in this early phase, just as there are no rules for the expert and working groups working in the next phases. There are no official criteria for whom to involve and whom

⁷ For an attempt to capture the statehood of the EU, see Caporaso, 1996.

⁸ These paragraphs will rely on results of interviews made by the author between 1989-1996 and on the Swedish Government's survey on the first experiences of the EU membership (SOU 1996). This combination secures a broad scoop as well as a surveyance period of 7 years.

not to involve, and there is no right to be heard (although the Commission normally include national civil servants in their capacity as 'experts' in the later phases). As these meetings are not minuted, there is no way of controlling what *de facto* happened and who was present. This implies that the public does not have a chance to see, which interest organisations tried to pursue their interests, and with which result.

As mentioned earlier it is not unusual that more than one of the Commission's GDs work on similar cases at the same time. Apart from the apparent loss of resources, it makes it hard for the national civil servant to identify the Commission's stand. Subsequently, the national preparation of a strategy is impeded.

Obviously, in spite of its evasiveness, the phase of problem definition is of great importance. But to recognise that there is a political problem is not the same as *setting it on the political agenda*, i.e. to decide that one has to try to solve it. It takes power to put a new issue on the agenda.

If the first 'soundings' were positive, a functionary writes a first draft proposal. It will be submitted to one of the many committees of the Commission, in which interest organisations, national experts etc are represented. Here the Commission gets first hints on the national positions. The Commission will often consult the national attaches, too. Thus the national administrations sometimes get their first notification, that something is in the pipeline, relatively early. But it is still a game among EU functionaries and representatives of interest organisations, other national experts and eventually national civil servants, not the politicians' game.

For the national civil servant this phase is very important and diffuse, too. Often the invitations for meetings come late, together with an incomplete agenda and some, but not all, relevant documents. Often the aim of the meeting is not clear for the civil servants going to Brussels. This makes it hard for them to prepare well. Some civil servants see this 'diffuse' character of the meetings of the working and expert groups as a deliberate attempt of the Commission to prevent them from an efficient preparation, which promotes the acceptance of the proposals of the Commission. It could, however, also be seen as the result of another administrative culture than the Nordic.

Another problem for the civil servants is, that it is often unclear on which legal basis a working group is acting. Is it merely advisory or perhaps administrative? This contributes to the diffuseness of these first phases.

Concerning the contents of the agenda, Windhoff-Héritier has remarked (1987/70) that the majority of issues on the agenda are old issues or routine questions, and that only a small part are really new questions. That this statement is true for the EU as well, is demonstrated in the Commissions own 'Recherche sur l'exercice du droit d'initiative de la Commission en 1991' (quoted in: Nedergaard, 1994/151f). Only 16% of the initiatives taken by the Commission in 1991 were new (6% coming from the Commission itself, 8% initiated by the Council and 2% were demands from either the EP or the European Court of Justice). The rest of 84% were the result of obligations arising from the treaty, from already agreed programs, from actions taken by the member-states etc. Thus it is clear, that putting new issues on the EU policy agenda can be much harder than taking up issues which fall within long established EU competencies.

It is hard to exaggerate the importance of the Commission in this phase. It is the Commission who decides if, when and in which form an issue will officially be on the agenda of the Council in form of a proposal.

When an issue has been placed on the Commission's internal agenda, it has to go through the Commission. The procedure is the same for all kinds of proposals (Spence in: Edwards & Spence, 1994/104).

The relatively small administration of the Commission makes it very dependent on external advice and information throughout the whole phase. It is easier to legitimise that an issue is put on the agenda, if the Commission can show a broad approval for a proposal. Such a proposal also stands a better chance to stay on the agenda. Thus the Commission will go on consulting committees of technical experts, of a mixed background e.g. national civil servants, academics, interest groups etc. Often there will be national civil servants in the groups. The Commission is also known to be very open to articulated interests from interest organisations - lobbyists. Most groups experience little difficulty in gaining access to Commission officials (Mazey & Richardson in: Edwards & Spence, 1994/178). The approach of the Commission towards the lobbyists has been characterised by Mazey & Richardson as pragmatic and undirected. But if possible, the Commission prefers to interact with the relevant European association. If there is no such association, the Commission encourages its establishment, of ideological reasons (in: Edwards & Spence, 1994/178ff).

The actors during the agenda-setting phase are a mixed crowd, consisting of interest groups, independent experts, national civil servants, *quasi non* governmental organisations, single issue groups, regional civil servants and politicians. At this stage e.g. an interest organisation can bring an issue on the agenda or prevent this; it is one of the most important stages, in the EU decision-making process (cf. Andersen & Eliassen in: Andersen & Eliassen, 1993/30). But it is the privilege of the Commission to decide whom to consult, and whom not to consult. Neither parliaments nor peoples as such are actors in this phase. And one has to keep in mind, that the Commission rarely accepts proposals not in line with the EU ideology.

In spite of all the openness of the Commission to lobbyists, and of the Commission's right of initiative etc, Mazey & Richardson claim that the member states and their representatives still set the agenda to a large extent (in: Edwards & Spence, 1994/176). The argument is sound, if one distinguishes between political and technical issues. Concerning the latter group, which is by far the greatest, the Commission dominates.

The College of Commissioners have, of course, got the right to pass initiatives on to their bureaucracy respectively to change proposals from the General Directorates. In some cases the national governments are able to influence the agenda-setting through 'their' Commissioner, respectively through his cabinet. But it very much depends on the personality of the Commissioner and on his or her standing in the Commission, how successful such national attempts to influence the policy are.

With an official proposal we enter the phase of *policy-formulation*, leaving the realm of the Commission. But this does not mean that the functionaries of the Commission are out of work, or influence. They will follow 'their' proposal as its advocates in the

working committees of the Council, just like a Commissioner is a member of the Council of Ministers.

This is the phase on which more traditional analysis of the EU decision-making process has concentrated. The later part of this phase is that of summits and night long negotiations well known from the media. But these events, one dare say 'happenings', only constitute a smaller illustrious part of the daily routine.

Since the implementation of the Maastricht treaty, there have been six main ways of making EU legislation plus a few variations, thus adding to the complexity. Any thorough analysis of these procedures would exceed the frame of this essay.⁹

It is under the auspices of the Council that the negotiations now take place in the COREPER (1&2) and its working groups. Some of the national civil servants, who acted as technical experts in the agenda-setting phase now turn up as national representatives, and they do not always take the same stand as they did previously. This does of course not amuse the EU functionaries (Spence in: Edwards & Spence, 1994/104).

For the 'A points' on the agenda of the Council (non-controversial; settled by the civil servants) most of the activity lays in the firm hands of the civil servants and, depending on the modus, of the EP. For the controversial points on the agenda (B points), one can divide the phase in two parts, one ruled by the civil servants, and one ruled by the ministers. In any case, the national civil servants, who are often experts in their field, are extremely important. They decide whether a proposal is 'controversial' or not (i.e. whether it is an A or a B-point); and they - knowing their broad national EU policy - make bargains, preventing possibly political and controversial topics from turning into 'B points'. They work to a very large extent on their own, often under time pressure. They know that if you sell out a bit of your 'national policy' one day, you may often get it back the next day, when another topic is negotiated.

How does one fit the interests of 15 states together into one - more or less (often less) - coherent policy? The agreement on the lowest common denominator is notorious. Especially in the cases where unanimity is still needed, the directive will often be passed as a broad frame, with room for interpretation (Schumann in: Héritier, 1993/413). Frames which then will be filled out by national civil servants. The 'culture of negotiations' is still maintained, especially when the Council of Ministers is negotiating the 'B points': one tries to go very far to find a suitable compromise if one of the member-states has a genuine problem. But if it is not possible, and if unanimity is requested, one tries to find a compensation in another issue; this is, how 'packages' are wrapped up (interview, Nov. 1995). But when package-deals are made, it is unavoidable, that the number of actors rise, which complicates the negotiations and creates more possibilities to influence the outcome. Another interesting point is, that the representative of a member-state may let himself get voted down in the Council, in order to be able to say at home that he fought for the issue but lost, rather than to come home with a bad compromise. Normally, however, ministers are willing to go far in order to accept a compromise, especially when only a qualified majority is needed; in that way they can still influence the policy outcome

⁹ For a description of the various procedures, see e.g. Nugent, 1994.

(interview, Nov. 1995). Not being able to find a solution to a problem, and ending up with a non-decision can be worth something, too. One can then go on as usual (Schumann in: Héritier, 1993/414).

The actors in this phase have changed: the initiative now lays with the Council and the national civil servants, especially the 'lonely experts' in the working groups. They are the main target of lobbying activities. But according to the procedure laid down in the treaties, the Commission and the EP can play important parts, too. Compared to the previous phases, this one is much more closed to external influences.

The *implementation phase* is the weakest link in the chain, seen from the Commission's point of view.¹⁰ In a national setting, government and Parliament can be fairly sure of the implementation of their decisions. They have means to control and enforce the implementation. This is not the case for the Commission. Thus this phase can easily turn out to be the one where the conflicting points that were so carefully wrapped up in a typical EU parcel, show up again. The European Commission relies heavily on the member-states when directives and regulations have to be implemented and eventually evaluated (cf. From & Stava in: Andersen & Eliassen, 1993).

Although one could expect the *policy reformulation* to be more or less the same as the policy formulation, this is not necessarily the case. In the period after the implementation (and before the reformulation), one has seen the advantages and disadvantages of the regulation or directive. One would expect this to be *the* opportunity to correct faults etc. This is, however, not necessarily so: The civil servants experience, that due to the Commission's very rigid understanding of rules, amendments to regulations seldom take place (interview, Nov. 1995).¹¹ This must, of course, also be seen in the light of the Commission's struggle for competence.

Reformulation of policy brings up the permanent problem of finding a new compromise for the 15 member-states; in addition the not unimportant bureaucratic resistance to change an already implemented procedure has to be overcome. This all speaks against radical changes. Thus one can consider the reformulation of EU policy a rather futile exercise.

* * *

What one has to stress at the end is that the process is not nice and linear; it is a permanent 'back and forth'. Often certain phases have to be repeated in the 'wrong' fora: A proposal from the Commission may e.g. be redrafted in a working group of the Council due to a

¹⁰ The Danish Foreign Office publishes an annual survey showing which countries have been brought before the Court in Luxembourg or are about to be. The sheer number is of course only the tip of the iceberg; but it gives a rough impression about which countries are 'good' and which are 'bad'. Denmark notoriously belongs to the '*Musterknaben*'.

¹¹ Prof. John Toy, University of Sussex, stated in Danish Radio (P1), 27.2.1996, 18.10, that the rigidity of the EU system prevented changes, although he recognised that the procedures were unsatisfactory.

surprisingly strong opposition. Thus a proposal does not always move forward. Sometimes it can circulate among the Council, the COREPER, the Council of Ministers, and the working groups etc. Further delay can occur from the various procedures involving the EP and other advisory organisations. It is a messy process and it is very hard for outsiders to get a general view of it. It is very much bound to the individual national civil servants and the EU functionaries.

2.2.1 *Influencing the EU*

Above we looked at the conditions the Danish civil servants have to work under. Now we will take a short look at some of the strategies Danish civil servants use, or could use, to further Danish interests in the EU.¹² A small state can choose among a large number of strategies to enhance its influence. The EU membership is in itself the major strategy for most small states (von Döenrode, 1993b/411).

As we have seen in the analysis of the EU policy cycle, the most important phases to seek influence in are the problem definition phase and the agenda-setting phase. In the later stages one talks about adjustments of the proposals, not the proposal itself. If Danish civil servants are not asked to join some of the working groups or are otherwise sounded out in the problem definition phase, the most important task is to find out that a policy process has begun, and to try to influence it from the start. The Commission is not obliged to tell the member-states anything, and they are entitled to change their policy proposal until it has been passed by the Council of Ministers. Thus it is important to have some kind of national representation all the way through the process. There are two evident groups to contact, Danish interest organisations and Danish scholars. Especially the interest organisations work closely together with the Danish Central Administration, thus they can be excellent sources of information.

As long as there is an area without rules and regulations there will be a certain degree of arbitrariness. Power and self interest are ruling. A future strategy, in line with the Danish tradition, could aim at laying down official rules and procedures for the work of the committees and working groups under the Commission. This would also produce transparency and both together would make the preparation of the national civil services more efficient. Moreover, the public would have a possibility to know how their daily life was ruled.

As informal contacts are very important, they will have to be systematised, as it is done by the German civil service.

Two developments have increased the Commissions importance during the last years: 1) The tendency to turn more political, i.e. that the cabinets of the commissioners are increasingly negotiating the proposals coming from the General Directorates. This

¹² That we talk about strategies to further *the national interests* of the member-states reflects the *de facto* situation, not necessarily what e.g. the founding fathers would have wished for.

opens a possibility for national influence on the proposals of the Commission. 2) During the Delors era, the Commission has witnessed a 're-nationalisation'. In spite of their obligation to act for the 'common interest of the EU' the commissioners have increasingly represented the interests of their respective countries. The Commission itself has been described as a 'clearing house', where the national interests were taken into consideration, before a proposal was sent on to the Council. Danish civil servants are happy for the direct contact, which sometimes works as an 'early warning'. With such a tendency, it is obvious that small states will have to fight for their 'right' to have a commissioner per state.

The question of small state alliances within the EU is not new. In everyday life in Brussels it is the interests that lead to alliances, and because the interests of states have a tendency to change slowly, certain patterns emerge. The North - South division is one such persistent pattern (von Dosenrode, 1993b/407).¹³ For Denmark, the states with similar interests are Germany, the Netherlands and Great Britain; Sweden and Finland are aspiring to 'join' that group (interviews in Copenhagen, November, 1995).¹⁴

Preparation for negotiations include a mapping of the positions of the other EU members, as well as talks with potential allies on all levels (ad hoc allies are looked for early, and indicated on the government's memo to the European Committee of the Danish Parliament). But if a case turns 'political', ones allies may leave on a very short notice.

Both Danish civil servants and ministers agreed that there was, of course, a difference in the influence of small states and great powers in negotiations. Denmark joined to gain influence on its immediate surroundings, and it has gotten that. The people interviewed agreed that *the* small state strategy in the Council of Ministers, as well as in the working and expert groups of the Commission and of the Council was to be very well prepared and to have a good argument. This is considered the *sine qua non*, if a small state wants to be heard. There has been no change in that approach (von Dosenrode, 1993b/337). It goes well with the changes in the society from negotiations to deliberations, from power to arguments.

What surprises is the frequent change of Danish attachés at the Permanent Representation in Brussels. The BENELUX states attach great importance to letting their diplomats stay for longer periods at the same post (ten years is not exceptional), because of the diffuse character of the decision-making process. It takes time to get to know the informal rules and procedures, as well as building up networks. Moving diplomats every 3 years is unefficient. The *bon mot* of Lynn & Jay (1989 (1981)/280) is describing the case: "Power goes with permanence, impermanence is impotence, rotation is castration".

To sum it up, one can say that influencing the EU decision-making process

¹³ Only one minister (Mrs Jelved) remembered one occasion where a small state explicitly had referred to small state loyalty: It was Greece on a personnel question. Otherwise she remembered none of these questions. Of small states using this strategy, Luxembourg is an example (von Dosenrode, 1993b/232).

¹⁴ To talk of a 'Nordic bloc' would be exaggerated. But there are common interests and a deep cultural familiarity that create a common way of looking at many problems.

positively (i.e. giving substantial proposals as to new policy areas and their main content) is done in the early phases of the policy process. Influencing the process *negatively*, i.e. trying to block a proposal can be done throughout the whole process, but again it is easier in the beginning, before too many have committed themselves to the new initiative.¹⁵ Thus participation is an essential strategy. Seen with national eyes, one may feel satisfied by the opinions of the ministers and civil servants interviewed in November 1995 (and in Summer 1989), who all agreed, that the small state Denmark 'got more than it gave'. But one will have to bear in mind that the Commission's way of working is made not to give way to national wishes, but to formulating a common European policy on a given issue.

3. The Actors and their Interplay in the Formulation of Danish EU Policies

In this part our attention will be directed towards Denmark as one of the 16 decision-making centres in the EU policy-making process. We will take a brief look at the formal, institutionalised EU coordination and decision-making procedure. This will help us to keep the survey, when we analyse the interplay between the four essential groups of actors in the two network contexts.

3.1 A Survey of the Formal Danish EU Decision-Making System

The formal part of the Danish EU coordination and decision-making procedure is built up around coordination and consultation committees on various levels, with different actors. On the lowest level one finds the 'EC Special Committees'¹⁶ (EF Special udvalgene). In 1997 there were 32 such committees. Their task is to coordinate the viewpoints of the involved ministries concerning a single issue or policy, e.g. agriculture or internal market. The work at this level was thought to be of specific and technical nature, but it includes strong political elements, too. The next level is the 'EC Committee' (EF Udvalget), a senior officials coordination committee, which according to Thygesen has three tasks (in: Haagerup & Thune, 1986/58): a) to solve the (rare) conflicts in the Special Committees according to the general rules of Danish EU policy, b) to filter political from administrative issues, and c) to lead the former on to the government. In addition it has to monitor the development of the EU in general. One has to stress the coordination function of the EC Committee: with 32 special committees it is one of the EC Committee's most important tasks to secure that the recommendations of these committees are not contradictory. The highest administrative level in the Danish EU decision-making system is the government, especially its Foreign Political Committee (Regeringens Udenrigspolitiske

¹⁵ For an analysis of Denmark's strategies concerning the EU, see von Dörmann, 1993b.

¹⁶ Both the EC Special Committee and the EC Committee are called 'EC' and not 'EU', because their field of action concerns mainly the old EC treaty; there is e.g. no special committee for the CFSP.

Udvalg). Its main task is to decide the Danish stand on issues which are negotiated in the EU (in all three pillars). Before the government can participate in the meetings of the Council in Brussels, it has to get the accept of the Folketinget, or rather it has to ensure that there is not a majority against its stand. This is ensured by the European Committee (Europa udvalg). Compared to the traditional administration, the Danish EU coordination process can be characterised as strongly centralised, but it is at the same time flexible, and many questions are solved informally (cf. von Dosenrode, 1993).¹⁷

3.2 The Interplay Relations

In this part we will look at the two important networks in Danish EU policy formulation, the administrative - corporative network, and the parliamentary network.

3.2.1 *The Administrative - Corporative Network*

This conglomerate¹⁸ network consists of 34 semi-autonomous sub-networks; the networks of the 32 special committees, the coordination network, and the ministerial network. The main task of the administrative-corporative network is to prepare the administrative part of the Danish EU decision-making process.

3.2.1.1 *The Special Committee Networks*

Function

The function of the special committees has always been to coordinate the viewpoints of the involved ministries and to make a recommendation for the Danish stand. Already in 1972, in a decision from the Government's EC Committee, it was stated that the ministries were responsible for knowing the opinion of the important interest organisations, and it was suggested that the chairman of the special committee invite the interest organisations to participate in the relevant meetings. Thus the purpose of the network involves a) establishing contact between the civil service and the IOs, b) exchange of information, c) coordination of actions in relation to the Commission, d) general cooperation in policy formulation, implementation and the subsequent legitimisation. In short: the main functions

¹⁷ The central administration and the public administration in general are pragmatic, not rigidly law-bound, there is e.g. no general law ruling the organisation and the procedure of the administration; there are no general rules on deadlines by which a case must be closed, and there are no general rules on sending proposals for comments (cf. Rasmussen, 1985/216).

¹⁸ The term 'conglomerate network' implies a situation with a group of interlinked networks, where they all participate and shape the group's output. As the conglomerate network contains 32 special committee networks, they will, in spite of their large differences be treated on a general base.

are to formulate Denmark's stand on a given issue, and help implementing the EU directive resulting from the negotiations.

Ørstrøm Møller wrote in 1983/248 that "The decisions taken by the special committees are in most cases confirmed by the subsequent levels". This was still true in 1996.

When an issue has been through the European Committee of the Parliament, and has been negotiated and decided in Brussels, normally a directive will be the result. It has to be implemented. The IOs are traditionally involved in the preparation of the implementation of Danish laws and the same is now the case with EU laws. Thus it is the civil servants together with the IOs who fill out the frames of the directive. Approximately 85% of the directives will be transformed into Danish rules administratively, i.e. through a law of authorization (*bemyndigelseslov*); not through the Parliament (Steen Gade, interview, Nov. 1995). Thus the Parliament is excluded from the procedure, and the minister often does not have the time to control the procedure closely before the Government notice (*bekendtgørelse*) is formulated (Steen Gade, interview, Nov. 1995) (see later).

The actors

There are basically two kinds of special committee networks, those only with civil servants, and those mixed of civil servants and representatives of IOs. But a membership is not always necessary for an IO to make its point of view be taken into consideration.

The actual actors vary from committee to committee. In the committees, where interest organisations are not represented, the main actors are civil servants, i.e. representatives of ministries; thus these committees are very homogenous. In committees with IO representatives, the IO representatives are often the elected members of the IOs, assisted by staff members from the IOs secretariate (e.g. representatives of the agricultural organisations) thus there is a funny mix of elected and non-elected members (civil servants). The IOs can be divided into two groups: the ones which have great importance to the civil service; they normally have great political power outside the network, too, and the ones of little importance to the civil service. The latter are often situated as external actors. Pedersen & Pedersen found out that it was mainly industrial and branch organisations which have close contacts to the civil service, and that labour market organisations were only involved to a lower degree (1995/19). This pattern can be explained by the specific nature of the issues treated by the special committees. The ministers of the involved ministries and the EC Committee belong to the category of peripheral actors. These last two categories of actors are not participating directly in the meetings of the committee, but they have a formal veto-power as well as a direct and close contact to the core-actors.¹⁹ The chairman of the special committee is often, but not always, the representative of his ministry in the EC Committee; this establishes a very tight link between the two networks.

The civil servants participating in the 'Brussels part' of the decision-making process

¹⁹ Both to the IO representatives and to the civil servants.

either as experts or national representatives belong to a special category of actors. The 'negotiator' does not report to the special committee, but to his ministry, very often to the chairman of the committee.

Structure

Each special committee should be regarded as an interdependent network, with a high degree of autonomy; it has a core-network, consisting of the main actors centred around the relevant special committee, and a broader network, where other important actors are active: Ministers, the EC Committee and the Ministry of Foreign Affairs. The borders of the network close around these actors. In spite of the general horizontal or egalitarian character of the networks, is it easy to identify a central unit, in the form of the chairman and his ministry; normally it is him (his ministry) who formulates the proposed Danish stand, and it is him who coaches it through the process. The pattern of interaction is ordered.

In this context we should remember that the sub-networks are tied together by formal as well as informal links on several levels. A recent survey indicates that concerning EU matters, 55% of the civil service have contacts with IOs either daily or monthly (Pedersen & Pedersen, 1995/19). Thus is it justified to talk about a general high density of the relations. Pedersen & Pedersen's analysis of corporatism in Denmark shows the rising importance of informal routine contacts, taking different forms, between the civil service and the IO. They also point out that there has been an increase in contacts since the Single European Act was put into effect (1995/17-20).

Power relations

One has to remember that actors of a network have to be seen as having their own potential of action and that they are, more or less, equal (e.g. Pappi in: Héritier, 1993/87). This corresponds to the perception of the important interest organisation: they do feel more or less treated like equals (interview, February, 1996). All ministries represented have a formal right to put an issue on the agenda; the important IOs have, *de facto*, the same possibility (interviews 1995). The IOs represent knowledge. Their acceptance and cooperation give the decision an appearance of legitimacy,²⁰ when it has to be implemented. The IOs represent political power in the Danish political system and in the EU, where they are often involved in the problem definition and in the agenda-setting of the Commission. The support of the IOs improves the chances that no major changes in the proposal of the special committees' network will be made when it passes through the parliamentary network. The civil service is not a monolithic bloc. It is segmented into actors defending different institutional interests. In these internal 'fights', the different actors from the civil service need the IOs for coalition building. This strengthens the position of the IOs (cf. von Dörmann, 1993). In spite of its segmentation the civil service is clearly the *primus inter pares*. It has got expertise and it is involved in the formulation of the proposal at an

²⁰ In this context, the term 'legitimacy' seems to equal 'power' more than e.g. 'representativity'.

early stage. It is the civil servant who negotiates the proposal in the framework of the Council of Ministers: there, the IOs are not involved.²¹ Generally the civil service has been able to raise its influence at the cost of the IOs.

The tradition of consensus decision gives the recommendations of the special committee a great authority towards peripheral actors as well as towards the Parliament.

3.2.1.2 The Coordination Network

Function

This network is a sub-network of the administrative-corporative EU network. It is centred around the 'EC Committee' (EF Udvalget), forming a narrow coordination network. Its main function is to coordinate the recommendations coming from the special committees network, i.e. to ensure that there is one single Danish stand.²² This function is important, due to the fragmented character of the conglomerate network, with its 32 sub-networks (von Dosenrode, 1993/459).

Actors

The actors are civil servants. There is a group of permanent members representing the ministries with many EU affairs; other ministries participate on *ad hoc* basis. The Ministry of Foreign Affairs which is responsible for the practical coordination of the Danish EU policy, supplies the chairman for the committee. Thus the number of participants is restricted.

Power Relations

As already mentioned, the civil service is not monolithic. There are immanent conflicts between e.g. the Ministry of Finance and the Ministry of Foreign Affairs, between the Ministry of Trade and the Ministry of Environmental Protection, and between the Prime Minister's Office and the Ministry of Foreign Affairs.²³ The IOs are important means in the 'fights' within the network. If an IO supports a recommendation which is beneficial to the interests of one ministry, this ministry has a better bargaining position. The involve-

²¹ In the working groups of the Council and sometimes in the Commission, too, the national civil servant cannot be controlled by the IOs, they will have to trust him or her (cf. Damgaard-Pedersen in: Madsen, Nielsen & Sjöblom, 1995/435). But the consensus principle as well as the situation of an ongoing cooperation in the special committee does indicate that the civil servant will stay loyal to his instruction.

²² It normally succeeds in this function; otherwise the government meetings and the EU Committee serve as filters, too.

²³ Interviews reveal, that 1) the prestige of the Foreign Office has not been restored after the blow of the Danish 'No' to Maastricht. The sector ministries do not take it seriously any more, and 2) the Prime Minister's Office has assumed increased responsibility for the Danish EU policy process.

ment in the policy-making process from the earliest phases, i.e. in the Commissions committees, of course enhances the influence of the civil service towards the parliamentary network, too.

3.2.1.3 Ministerial Network

Function

The ministerial network is the last sub-network of the administrative - corporative EU network. Its main functions are the political and administrative preparation of 'selling' the proposal to the Foreign Political Committee of the Government, the parliamentary EU network, and later in Brussels (the minister as salesman). The minister is the official bridge between the parliamentarian and the administrative - corporative network. Secondly, the minister has his role as political legitimiser; neither the IOs nor the civil service are entitled to suggest new bills; that is the prerogative of the government (of course that of the members of the parliament, too). Thirdly, the minister and the Foreign Political Committee of the government serve as troubleshooters. In the rare cases where conflicting interests are not solved in the special committee network (or in the EC Committee) it is the involved ministers, or the Government, who have to make the final decision. Fourthly, the minister or the Government may lay down guidelines for Denmark's over-all EU policy. Fifthly, the minister may serve as an important communicator. Only a minister can call a minister from a foreign country; no Danish permanent secretary, no matter how senior, can pick up the phone and call the German Chancellor or the British Prime Minister. Mr Schlüter could and did, and one can assume that Mr Nyrup Rasmussen does the same (interview, 1995).

These functions give the minister and the government an important role to play in the Danish EU decision-making process, although it may not be quite as glamorous as one often thinks. These functions comprise the minister's/government's dual role as politicians and head of the civil service.

Actors

The actors are the minister representing the government and the civil service, foremost senior civil servants, from head of section and up. Thus the network is small and the borders quite clear.

Power Relations

The relationship minister - civil servants is close, but not symbiotic. Ministers change fairly often; this in itself gives the civil service an advantage. It is obvious that in case of an open conflict between a minister and his civil servants, he will be the stronger. The civil service can only act due the minister's power, and he has got the power to sack a civil servant. Thus the civil service will rarely let such a situation arise. On the other hand, the minister is very dependent on the expertise of the civil service.

3.2.2 The Parliamentary Network

The overall frame for the parliamentary network is the Parliament. As in most other countries, foreign policy is considered a governmental prerogative (Constitution § 19). At the same time the Parliament is getting more and more involved in the conduct of foreign policy. Thus we witness a mixture of the legislative and the executive functions. According to the Constitution, the Parliament has to elect a Foreign Political Council (Udenrigspolitisk Nævn). The government has to inform them and discuss any future decisions of major importance with them.²⁴ As foreign policy, contrary to national policy, is seldom made in the form of laws (which have to be prepared and passed by the Parliament), this paragraph secures that the Parliament is kept informed. Out of its own rights, the Parliament has created 4 standing committees for foreign political issues (European Committee, Security political Committee, Foreign political Committee and Defence Committee). When laws on these issues have to be passed, they will be prepared by one of these committees.

In the Constitution as well as in the Rules of Procedure of the Parliament tools that can be used to influence the government's foreign policy have been laid down. Basically there are two ways of influencing: either the MPs can propose a law on a foreign political topic (Constitution § 41), or they can ask a parliamentary question, which may lead to a parliamentary resolution, which is binding for the Government (Constitution § 53 and the Parliamentary rules of procedure § 20 and § 21).

The Parliament also engages in sending delegations to various international organisations (NATO, OSCE, WEU etc.) and there are annual debates on foreign policy and on the EU. The Parliament's internationalisation has increased since World War II. The debates on Danish EC membership in the 1960s and the beginning of the 1970s can be seen as a preparation for the activity of the 1980s. During the 1980s the Parliament several times debated foreign political issues, speaking against the stand of the government. As a result, the government had to follow the majority of the Parliament, against its own stand (the 'footnote policy' of the 1980s and the debate on the Single European Act 1986). Due to the security policy debates and the broad public interest in EU affairs, the Parliament has gotten more used to think internationally.

The parliamentarians are of the opinion that their work is getting increasingly internationalised, but that their influence on this issue is declining. To change this situation a working group on foreign political questions was set up in 1995. They were supposed to make suggestions on how to increase the influence of the Parliament on foreign policy. The result was a report with concrete suggestions on better coordination, better information and fewer committees treating foreign political matters (Redegørelse og indstilling fra Arbejdsgruppen vedr. Udenrigspolitiske Spørgsmål, 18. Oktober 1995).

²⁴ Bjøl quotes Bruun for stating that major foreign political decisions are those with major domestic consequences (1982/135).

Function

The parliamentary EU network is centred around the European Committee of the Parliament (in the following referred to as: the Committee). Its functions are 1) to inform the Parliament on developments in the EU in general, and on Danish stands in particular, 2) to give the Parliament a possibility to influence Danish EU policy, thus legitimising it, and 3) to be the last possibility of coordination. Unintentionally the meetings of the Committee also serve as rehearsal for the Minister before his 'performance' in Brussels. Thus the Committee's task is to control and influence Danish EU policy in the name of the electorate.

The 17 members of the Committee meet on Fridays, and the issues on its agenda are those which the Council of Ministers is going to negotiate about in the following week. The minister, or the ministers, who are going to negotiate in Brussels go through all points on the agenda. The minister can choose whether he wants to give the Committee an orientation (if the government does not expect a decision to be made at the meeting of the Council²⁵) - or a concrete negotiation proposal (*forhandlingsoplæg*) (if it expects the Council to make a decision. But the members of the Committee may ask questions, and make suggestions to all points on the agenda. The minister has to be certain that there is not a majority against his proposal; when he has secured this, he has got his 'mandate'. The 'mandate' has three aspects: 1) agreement on the subject matter, 2) agreement on which allies to search, and 3) 'the elastic', i.e. the freedom of action for the negotiator (interview, Steen Gade, Nov. 1995).

The Committee is the meeting point of the two networks; the parliamentary and the administrative - corporative.

Actors

The hard core of the network consists of 17 members of Parliament and their substitutes (represented according to their strength in Parliament). The members are often senior in their party, e.g. former ministers or EU spokesmen. They have often been Members of Parliament for several years, which has given them great knowledge. The ministers are members of the network in a broad sense. They are necessary actors; they are the link of communication to the administrative - corporative network. But in the narrow sense they are not 'full' members; they do not have the competence to authorise negotiations, as the members of the Committee *de facto* have. The ministers may bring civil servants along to the meetings of the European Committee, but they cannot substitute him.

Among the actors one obvious group is lacking: the Danish MEPs. The European Committee has tried to keep in contact with them for several years; but one first realised that the MEPs could be of use after Denmark had 'lost' an important case (*madsminke-sagen*). Their usefulness stems from the new powers of the EP on environment, health

²⁵ The often heard complaint, that the Committee is notified too late is only partly true. It is true, that it normally gets notified when an issue *has been* on the agenda of the special committee. But a proposal is often discussed several times in the Council, and thus it returns to the special committee, too.

and consumer protection questions. In May 1994, the Folketinget decided, that the Government had to inform the Danish MEPs on the Danish policy. In spite of the lost cases, and in spite of the relevance as an extra canal of influence, the MEPs are not involved as early as necessary. In Denmark's Radio (20.1.96) the Foreign Minister stated that the Government only had a duty to inform the MEPs "if possible", and that cases on environment, health and consumer rights were complicated, taking time to prepare thoroughly etc. The Government *de facto* said, that it was not interested in this possibility.

Power relations

There are two kinds of power relations; the party political one (which is left out here), and the one between the administrative - corporative network and the parliamentary network.

The 'Danish model', understood as a potentially effective parliamentary control of the government's stand before the negotiations in Brussels, rests on two interconnected conditions: 1) The tradition of constructive cooperation between government and opposition, and 2) Minority governments, i.e. a situation where the Parliament can bring down the government, if they do not stick to what was agreed upon. In Western Europe, only Norway, Sweden and partly Spain have the same tradition of minority governments. The parliamentary culture, especially the tradition of 'constructive opposition' is equally rare outside Scandinavia. Thus one may speak of a Danish model, but the potential for 'exporting' it seems rather limited. Until now, only Sweden has tried to adopt it.

The power of the committees is also increased by 1) the high standard of the members, and 2) the time pressure, understood in the way, that there has to be a Danish stand, a 'mandate', when the meeting is over. In daily business, the committee seldom gives the minister a 'mandate' that does not correspond to his stand. More often it is minor changes that happen: As the conglomerate network knows the opinions the minister is going to meet, he does not present something he knows is unacceptable for the majority.

Thus the structural frame of the Committee gives it a central position with formal power. In spite of being informed on a fairly early stage, there are severe restrictions to the real power of the Committee: 1) There are only 17 members to look at all the proposals, and they are members of different parties, which prevents an all too close cooperation and specialisation. 2) The European Committee members may be informed early, but they are excluded from the important stage of problem definition and normally from the agenda-setting phase, too. Thus their possibilities are limited to changing details in a proposal, or to turn it down; it is hard if not impossible to change proposals substantially. 3) The power of the European Committee is further weakened by the influence of the administrative - corporative network: The support of the IOs and the recommendations of the civil service can make it hard to oppose the government's stand. 4) The parties the committee members belong to are often related to IOs. This limits the freedom of action of the MPs. The memo sent to the Committee by the Government includes a survey of the opinions of the IOs. If the IOs are positive, the members of the Parliament will not turn down the proposal. 5) The Parliament is not in accordance with the majority of the population, who are very sceptical towards the EU. This paralyses the Committee and the

Parliament.²⁶ This last reason is perhaps the most important one. Not being allowed to think visionary, the Committee can use its time to look through, and be critical to minor details. This leaves the initiative to the administrative - corporative network.

In spite of the obvious dangers of simplifying matters, one can answer the question of 'who decides' in the formulation of Danish EU politics like this: By and large it is the administrative - corporative network, i.e. civil servants in cooperation with the interest organisations. They decide on the daily EU affairs. The European Committee could potentially influence the Danish stand concerning major policy decisions such as those related to the Intergovernmental Conference which began in 1996. But due to the paralysation of the Parliament, the Danish contribution to this conference has been meagre. The parties in government would either break apart or get punished by the electorate, if they played active roles.

Strategy of the Actors of the European Committee

The strategies of the MPs as members of the Committee in their interactions with the administrative - corporative network have been incrementalistic. One can talk of an ongoing process, beginning with the law on accession to the then EEC. This law stipulated, 1) that the Parliament had to be informed on an annual basis on the developments in the then EC, and 2) that the government had to inform a parliamentary committee on EC legislation which would be passed by the Council of Ministers (§ 6). Thus the starting-point was a right to be informed, nothing more. Already after one month of membership the majority of the Parliament imposed on the minority government always to check that there was no majority in the Danish Parliament against the government's stand on an initiative to be voted on in the Council of Ministers (Folketingstidende, 1972/73 Sp. 3355). The aim of the Committee was to democratise the Danish part of the EU decision-making process. There has been a process leading to the right to give mandates, to be informed earlier, to be informed better etc.²⁷ However, the Committee has still been criticised for a lack of efficiency by some of its members.

Some of the members of the Committee are aware of its shortcomings.²⁸ Often it boils down to manpower: 17 persons cannot follow all the proposals coming in. The Memo from 1994 (Beretning om regeringens orientering af Folketinget om EU sager,

²⁶ The major party political actor, the Social Democrats, (the Prime Minister's party) are internally divided on the EU issue. The same goes for the Radical Left (the Foreign Minister's party). The division is not so much in the parliamentary groups, as in the party organisation and among the members.

²⁷ For a concrete and impressive display of this strategy, see the memos of the Market Committee /European Committee 1972 - 1996.

²⁸ In the new regulation on the cooperation between Government and Parliament, several of these shortcomings in the Danish part of the EU decision-making system have been identified and worked on (cf. Beretning afgivet af Europaudvalget om Folketingets behandling af EU sager, 27. september, 1996).

20.5.1995) created the possibility of using the other standing committees of the Parliament for hearings. This possibility is now being implemented. It differs very much from committee to committee how well it works, and from minister to minister.²⁹ It would seem natural to take the step and to accept that the EU is penetrating all or most of the legislative work.

Then one could delegate the tasks of the EU Committee to the other standing committees of the Parliament, and let the European Committee take care of coordination and general of institutional questions (e.g. Steen Gade, Nov. 1995).

Another old, unused possibility to coordinate, monitor and influence the decision making process is the already described closer contact to the Danish MEPs; a possibility which is used in other EU member-states such as Germany.

There are only two innovations of the European Committee in its agreement with the government from 1996, but they could potentially strengthen the Committee's influence. The first concerned the implementation of EU directives. Of the 127 directives transferred into Danish law in the period 1994-95, only 27 were transferred by law, i.e. through the Parliament; the others were transferred administratively, i.e. without the Parliament knowing how the often very broadly formulated Directive was transferred and implemented. From 1997 the ministry responsible for the implementation will have to inform the European Committee on the implementation.

The second innovation of the European Committee concerns the directives adopted by the EU Commission and other 'administrative' rules passed in Brussels, without direct involvement of the Council of Ministers. The European Committee is now going to be informed about those cases led on to it by the administrative corporative network. That this need was urgent is illustrated by a statement by a Danish civil servant: "as soon as I have agreed to the new regulation, it is law in Denmark" (interview, 1995). This new procedure is unfortunately not complete. Information is only given concerning those cases, the administrative corporative network estimates to be relevant. As indicated earlier, an issue is *grosso modo* settled when it has been taken care of by the civil servants in the first phases of the policy cycle.

The main problem is that the Parliament seems to build a strong and efficient means of control over the Danish part of the EU decision-making process, but it is very reluctant to use it. The Parliament is paralysed because of fear for the electorate, and it is drowning itself in detailed questions in the European Committee. Thus the initiative drifts to other more active actors. Civil servants - backed up by the interest organisations - feel obliged to act on the elites behalf; the elite they also belong to.

²⁹ Some ministers have been neglecting the EU questions in other committees than the European Committee, when called for consultations. They argued that they would answer these questions the following Friday in the European Committee. In other committees procedure has been laid down to ensure that EU related questions are scrutinised by the experts e.g. in the Environmental Committee or in the Committee on Trade and Industry.

4. Conclusion: Efficiency and Democracy in the Danish EU Decision-Making Procedure

The main topic of this essay was to find out how Danish EU policy is made and who is involved. Additionally we have briefly looked at the efficiency question by analysing, where and when it is best to promote the Danish points of view (cf. 2.2.1). Both civil servants, ministers and MPs share the opinion, that Denmark's interests are for the time being well taken care of. 'We' get more than 'we' give, which indicates a reasonable efficiency. But the efficiency is related to the phase in which the administrative corporative network is involved. Often the network or some of its actors are only involved in the decision-making phase, not in the two previous and essential ones. As mentioned there is no 'right' to be involved earlier. Thus 'efficiency' basically implies the ability to change and adapt the proposal to the Danish interests, but not to decide on its main substance.

It is how these smaller changes and attempted adaptations are going to look like, which is the substance of the Danish EU policy. And it is these stands, which are formulated by the administrative corporative network, and rubber-stamped by the European Committee of the Parliament.

It should be clear from this essay, that if one wants to look at the democratic aspect of Danish EU policy-making, one will have to look at the EU level and at the Danish level. We will shortly do that (the democracy question is not the main topic of this essay, it has been treated by others elsewhere (e.g. Kelstrup in: Madsen, Nielsen & Sjöblom, 1995). But a few obvious points that are relevant for the question of democracy have arisen during this analysis, thus we turn to them briefly).

By using the insights of the policy cycle our attention was drawn to the first phases of the policy process. I will shortly draw the attention to a couple of anomalies.

1) It is the Commission which has the institutionalised right to initiate policies within the Union, a right normally laying with an elected Parliament, who is legitimised through elections. The Commission's legitimation lays in its pursuit of an ideology, the European integration. All the member-states have accepted this role of the Commission as 'defender of the faith', when accepting the *aquis communautaire* by becoming members. One could argue, that it is necessary for the Commission to be kept free from attempts of national influence in the first phases, to be able to fulfil its role. From an 'openness' point of view, it is a problem that the meetings in the working groups of the Commission, from the very first soundings and onwards, are not minuted. As it is, it is impossible to see, whether the Commission has been adopting a sound argument, or whether a proposal is resting on false premises. Equally bad is the lack of rules concerning whom to invite to participate in working groups and unofficial hearings, and whom not. If it is not possible to find ways to hear a representative part of the involved interests, then at the very least it should be possible to add a list to the proposal, that is sent to the Council of Ministers. This list should mention all the actors who have been involved, together with a brief statement of their contribution.

2) One could argue, that whether it is a civil servant in the EU or in the Danish Central Administration proposing a law is all the same; but there are important

differences: 1) A Danish civil servant works on behalf of his minister, who is responsible to the Parliament. At least theoretically the civil servant can be controlled and held responsible. 2) The Parliament is, at least concerning EU affairs, getting informed on which IOs were involved in the process.

The argument goes that the first part of the EU decision-making process is not democratic, if one understands 'democratic' as having something to do with public legitimation through elections, the possibility to control how a decision was made, the possibility of participation and the possibility to hold a decision-maker responsible for his decisions.

In the analysis of the decision-making on the national level, we saw that Denmark was involved at a late stage in the EU policy process, but that 'all' involved actors felt that 'we' did well in the negotiations in the Council of Ministers. But we saw, too, that 'we' are only the actors of the administrative corporative network. The Parliament, in spite of its formal powers, is on its way to get disconnected from the decision-making procedure, if it has not been already.

This essay ends in a slightly pessimistic tone, concluding that the EU is still in a transition phase and is not yet democratic, and that the influence in the Danish EU decision-making process has drifted away from the parliamentary network, where there is a certain democratic legitimacy, to the administrative corporative network, where there is none.

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